

entry of the Preliminary Amendment filed May 25, 2001, which resulted in adding new claims 53-74 and canceling claims 1-52, only claims 53-74 remain pending.

This application claims priority to four Japan patent applications under 35 U.S.C. § 119. However, claims 53-74 are fully supported by only one of the priority applications, JP 01-29803. Japan application no. JP 01-29803 names only Kiyoo Itoh and Yoshinobu Nakagome as the inventors. Accordingly, the other four inventors are required to be deleted.

The procedure for correcting inventorship is discussed in the M.P.E.P., see, M.P.E.P. 1400, "Reissue as a Vehicle for Correcting Inventorship", (MPEP 8, August 2001), copies enclosed for the Examiner's convenience. In accordance with this procedure, Applicants submit herewith a Supplemental Declaration for Reissue Patent Application identifying the error in inventorship and setting forth the correct inventors. Upon approval from the Examiner, the Supplemental Declaration will be signed by the inventors: Kiyoo Itoh and Yoshinobu Nakagome.

Status of Claims and Information Disclosure Statements

Claims 53-74 which are pending in the present application were indicated as being allowed in the parent reissue application. Then, in the parent reissue application, allowed claims 72-93 were canceled by a Rule 312(a) Amendment. These claims were added to the present continuation application by the Preliminary Amendment filed May 25, 2001.

The following Information disclosure Statements are of record:

1) An Information Disclosure Statement submitted herewith that presents references that were not considered in the parent reissue application. These references are cited in a corresponding Japanese patent application. Specifically, the references have been cited in Japanese Application No. 2001-151817, which is a divisional application of Japanese Application No. 01-29803, from which priority is claimed in the present reissue application.

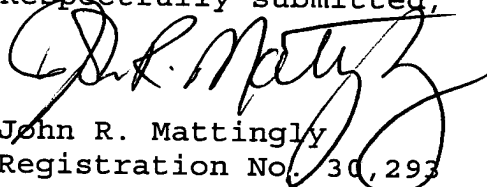
2) An Information Disclosure Statement filed July 12, 2001 that lists references that were not considered in the parent reissue application and which were cited in corresponding Japanese Application No. 10-369011. These cited references are JP58-211391; JP59-153,331 and JP63-229848.

3) An Information Disclosure Statement filed May 25, 2001 that lists the references of record from the parent reissue application.

Applicants request consideration of the references set forth in the foregoing Information Disclosure Statements as a part of the examination of pending claims 53-74.

Examination is respectfully requested.

Respectfully submitted,


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REISSUE AS A VEHICLE FOR CORRECTING INVENTORSHIP

Where the provisions of **35 U.S.C. 256** and **37 CFR 1.324** do not apply, a reissue application is the appropriate vehicle to correct inventorship. The failure to name the correct inventive entity is an error in the patent which is correctable under **35 U.S.C. 251**. The reissue oath or declaration pursuant to **37 CFR 1.175** must state that the applicant believes the original patent to be wholly or partly inoperative or invalid through error of a person being incorrectly named in an issued patent as the inventor, or through error of an inventor incorrectly not named in an issued patent, and that such error arose without any deceptive intention on the part of the applicant. The reissue oath or declaration must, as stated in **37 CFR 1.175**, also comply with **37 CFR 1.63**.

The correction of inventorship does not enlarge the scope of the patent claims. Where a reissue application does not seek to enlarge the scope of the claims of the original patent, the reissue oath may be made and sworn to, or the declaration made, by the assignee of the entire interest under **37 CFR 1.172**. An assignee of part interest may not file a reissue application to correct inventorship where the other co-owner did not join in the reissue application and has not consented to the reissue proceeding. See *Baker Hughes Inc. v. Kirk*, 921 F. Supp. 801, 809, 38 USPQ2d 1885, (D.D.C. 1995). See **35 U.S.C. 251**, third paragraph. Thus, the signatures of the inventors are not needed on the reissue oath or declaration where the assignee of the entire interest signs the reissue oath/declaration. Accordingly, an assignee of the entire interest can add or delete an inventor by reissue (*e.g.*, correct inventorship from inventor A to inventors A and B) without the original inventor's consent. See also **37 CFR 3.71(a)** ("One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or reexamination proceeding **to the exclusion of either the inventive entity**, or the assignee(s) previously entitled to conduct prosecution." Emphasis added). Thus, the assignee of the entire interest can file a reissue to change the inventorship to one which the assignee believes to be correct, even though an inventor might disagree. The protection of the assignee's property rights in the application and patent are statutorily based in **35 U.S.C. 118**.

Where a reissue to correct inventorship also changes the claims to enlarge the scope of the patent claims, the signature of all the inventors *is needed*. However, if an inventor refuses to sign the reissue oath or declaration because he or she believes the change in inventorship (to be effected) is not correct, the reissue application can still be filed with a petition under **37 CFR 1.47** without that inventor's signature. It is the assignee who controls correction of inventorship.

The reissue application with its reissue oath or declaration under **37 CFR 1.175** provides a complete mechanism to correct inventorship. See *A.F. Stoddard & Co. v. Dann*, 564 F.2d at 567, 195 USPQ at 106. A request under **37 CFR 1.48** or a petition under **37 CFR 1.324** cannot be used to correct the inventorship of a reissue application. If a request under **37 CFR 1.48** or a petition under **37 CFR 1.324** is filed in a reissue application, the request or petition should be dismissed and the processing or petition fee refunded. The material submitted with the request or petition should then be considered to determine if it complies with **37 CFR 1.175**. If the material submitted with the request or petition does comply with the requirements of **37 CFR 1.175** (and the reissue application is otherwise in order), the correction of inventorship will be permitted as a correction of an error in the patent under **35 U.S.C. 251**.

Where a reissue application seeks to correct inventorship in the patent and the inventors sign the reissue oath or declaration (rather than an assignee of the entire interest under **37 CFR 1.172**), the correct inventive entity must sign the reissue oath or declaration. Where an inventor **is being added** in a reissue application to correct inventorship in a patent, the inventor being added must sign the reissue oath or declaration together with the inventors previously designated on the patent. For example, a reissue application is filed to correct the inventorship from inventors A and B (listed as inventors on the patent) to inventors A, B, and C. Inventor C is the inventor being added. In such a

case, A, B, and C are the correct inventors, and accordingly, each of A, B, and C must sign the reissue oath or declaration. Where an inventor **is being deleted** in a reissue application to correct inventorship in a patent, the inventor being deleted need not sign the reissue oath or declaration. The reissue oath or declaration must be signed by the correct inventive entity. For example, a reissue application is filed to correct inventorship from inventors A, B, and C (listed as inventors on the patent) to inventors A and B. Inventor C is being deleted as a named inventor. In such a case, A and B are the correct inventors, and accordingly, inventors A and B must sign the reissue oath or declaration but inventor C need not sign the reissue oath or declaration.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Patent Application of

K. ITOH et al

Serial No. 09/864,338

Group Art Unit: 2818

Filed: May 25, 2001

Examiner: S. Mai

For: LARGE SCALE INTEGRATED CIRCUIT WITH SENSE AMPLIFIER
CIRCUITS FOR LOW VOLTAGE OPERATION

SUPPLEMENTAL DECLARATION FOR REISSUE PATENT APPLICATION

Assistant Commissioner of Patents

Washington, D.C. 20231

Sir:

As a below named inventor, I hereby declare that:

My citizenship, residence and post office address
are as stated next to my name.

Kiyoo Itoh

Citizenship: Japan

Residence: Higashikurume, Japan

Post Office Address:

c/o Hitachi, Ltd. of Kanda Surugadai 4-chome,
Chiyoda-ku, Tokyo, JAPAN,

Yoshinobu Nakagome

Citizenship: Japan

Residence: Hachioji, Japan

Post Office Address:

c/o Hitachi, Ltd. of Kanda Surugadai 4-chome,
Chiyoda-ku, Tokyo, JAPAN,

In re Reissue Application of
K. Itoh et al
Serial No. 09/864,338
Supplemental Declaration

H-706-02

I believe I am the original, first and joint inventor of the invention described and claimed in U.S. Letters Patent No. 5,526,313 and in the specification of the foregoing reissue application and for which improvement is solicited a reissue patent.

IDENTIFICATION OF ADDITIONAL ERROR

There is an error in the inventive entity set forth in the above-identified reissue application. Specifically, only the inventors Kiyoo Itoh and Yoshinobu Nakagome are inventors of the claimed subject matter of the present application.

More specifically:

(1) Applicants claim the benefit of priority of four Japan applications under 35 U.S.C. §119.

(2) Pending claims 53-74 are fully supported by priority application No. 01-29803, which only lists the above two inventors.

(3) By the present reissue application, the error is corrected by deleting the following inventors:

- 1) Jun Etoh;
- 2) Yoshiki Kawajiri;
- 3) Eiji Kume; and
- 4) Hitoshi Tanaka.

In re Reissue Application of
K. Itoh et al
Serial No. 09/864,338
Supplemental Declaration

H-706-02

(4) The error in naming the additional inventors in the reissue application as originally filed arose without any deceptive intention on the part of the named inventors.

ERROR STATEMENT

Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior declaration submitted November 30, 1998 in the parent application, arose without any deceptive intention on the part of the Applicants.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

Kiyoo Itoh

Date

Yoshinobu Nakagome